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June 26, 2000

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VIA HAND DELIVERY

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Notice of *Ex Parte* Presentation by Memphis Networx, LLC
CS Docket No. 00-30**

Dear Ms. Salas:

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's Rules, Memphis Networx, LLC ("MNet") by its attorneys, submits this notice in the above-captioned docketed proceeding of an oral *ex parte* presentation made and written *ex parte* materials distributed on June 23, 2000 during meetings with the following: Royce Dickens, FCC Cable Services Bureau; Carl Kandutsch, FCC Cable Services Bureau; Anne Levine, FCC Cable Services Bureau; and Nancy Stevenson, FCC Cable Services Bureau. The presentation was made by Ward Huddleston, Chief Executive Officer, MNet and Michael B. Hazzard of Kelley Drye & Warren LLP. Copies of the written materials distributed at the meeting are attached hereto.

During the presentation, the parties discussed the overview of MNet, the FCC's merger review standard, and how AOL Time Warner has not satisfied the FCC's merger review standard. The AOL Time Warner merger only presents public interest risks, not public interest benefits, and commitments from AOL Time Warner to act in a competitive-neutral manner are necessary to demonstrate that this merger will serve the public interest.

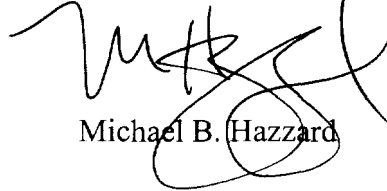
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KELLEY DRYE & WARREN LLP

Magalie R. Salas
June 26, 2000
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Pursuant to Sections 1.1206(b)(1) and (2), an original and two copies of this *ex parte* notification (with attachments) are provided for inclusion in the public record of the above-referenced proceeding. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "MH", with a large, loopy flourish extending from the end of the signature.

Michael B. Hazzard

cc: Royce Dickens, FCC Cable Services Bureau
Carl Kandutsch, FCC Cable Services Bureau
Anne Levine, FCC Cable Services Bureau
Nancy Stevenson, FCC Cable Services Bureau
Ward Huddleston, Memphis Networx, LLC
International Transcription Services

AOL Time Warner Merger CS Docket No. 00-30

Memphis Networx, LLC
ex parte presentation

June 23, 2000

Summary

- Overview of Memphis Networx (“MNet”)
- The FCC’s merger review standard
- AOL Time Warner has not satisfied the FCC’s merger review standard
- As proposed, the merger presents clear and present public interest risks, and no public interest benefits
- Commitments from AOL Time Warner to act in a competitive-neutral manner are necessary to demonstrate that the merger will serve the public interest

Overview of MNet

- Joint venture of Memphis Light, Gas & Water Division and A&L Networks
- Created as a result of a Tennessee statute designed to encourage public utilities to enter telecommunications markets
- Business plan is to construct a service-neutral, carrier-neutral, open network to transport voice, data, and video content
- Primarily a network provider, or overbuilder, not a services provider

The FCC's Merger Review Standard

- Applicants must demonstrate that any proposed merger will produce AFFIRMATIVE PUBLIC INTEREST BENEFITS
- In analyzing this standard, the FCC asks whether a proposed merger will
 - Violate the Act
 - Violate the FCC's rules
 - Frustrate efforts to achieve the goals of the FCC and the Act
 - Produce “but for” public interest benefits

AOL Time Warner Has Not Satisfied the FCC's Merger-Review Standard

- The merger will frustrate the FCC's effort to achieve the goals of the Act
- The merger will not produce “but for” public interest benefits

The Proposed Merger Presents Clear & Present Public Interest Risks

- In spite of the pending merger, both AOL and Time Warner have engaged in anticompetitive activities
 - AOL prevents non-AOL customers from using instant messaging to communicate with AOL subscribers
 - Time Warner prevented millions of consumers from viewing ABC programming
 - Time Warner has clogged SBC's systems with false orders
 - Time Warner has refused to provide open-access to its cable properties
 - Time Warner continues to oppose MNet's effort to develop and deploy a carrier-neutral network in Tennessee

The Proposed Merger Presents Clear & Present Public Interest Risks

- AOL and Time Warner are on their best behavior right now
- Approving the merger “as is” would further encourage anticompetitive behavior

Time Warner's Efforts to Preclude MNet from Deploying a Competitive Overbuild Network

- Time Warner has opposed MNet's market entry at the state legislature, the state regulatory commission, and before numerous municipal bodies
- Time Warner has transmitted FUD letters to other telecom providers to manufacture opposition to MNet
- Time Warner alleges "cross subsidization" issues (a claim rejected by the TN Consumer Advocate), but would be willing to "go away" if MNet would commit to limiting its rollout plan

AOL Time Warner Anywhere, Competitors Nowhere?

- AOL Time Warner wants consumers to be able to access its Internet content through all existing network infrastructure -- “AOL Anywhere”
- Yet, AOL Time Warner will not open its network to others, such as ISPs and instant messaging providers, and still disconnects others (*e.g.*, ABC) at will
- In addition, AOL Time Warner wants to foreclose overbuilders from constructing alternative networks in areas served by Time Warner’s cable systems

Ensuring that Public Interest Benefits Result from any AOL Time Warner Merger

- As presently configured, proposed merger is anticompetitive -- will serve to further AOL Time Warner's interest, but not the public interest
- At a minimum, the FCC should require
 - AOL Time Warner to take a competitive-neutral view to new entrants, such as MNet and
 - Commit to a real, concrete, and enforceable plan for opening its networks
- Such commitments would provide support for a Commission finding that the proposed merger would further the public interest